

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Glenda Deaton,

PLAINTIFF

v.

Kilolo Kijakazi, Acting Commissioner of
Social Security Administration,

DEFENDANT

Case No. 4:20-cv-01885-TLW

ORDER

This matter comes before the Court on Plaintiff Glenda Deaton's motion for attorney's fees pursuant to the Social Security Act, 42 U.S.C. § 406(b)(1). ECF No. 27. Plaintiff's motion seeks approval of an attorney fee award to be paid from Plaintiff's retroactive benefits in the amount of \$28,749.72, less any awarded EAJA fee and less any fee awarded at the administrative level. ECF No. 27-1. This request is based on her counsel's successful representation in helping Plaintiff receive her back benefits. The Commissioner filed a response indicating that she "neither supports nor opposes" Plaintiff's request. ECF No. 29. Commissioner, however, requests that Plaintiff's counsel be ordered to remit to Plaintiff the amount of fees previously awarded under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412.*Id.*

Having reviewed the file and being fully advised, the Court finds that the request for fees is not greater than twenty-five percent of the past due benefits withheld by the Social Security Administration for attorney's fees as required by 42 U.S.C. § 406(b) and is reasonable. Accordingly, the Court hereby **ORDERS** that the

motion for the award of fees pursuant to the Social Security Act, 42 U.S.C. §406(b), ECF No. 27, is **APPROVED**, and the Commissioner is directed to award Plaintiff \$28,749.72 in attorney's fees. Also, as Plaintiff's attorney was previously awarded attorney's fees in this action under the EAJA, the previous EAJA award shall be refunded to Plaintiff from Plaintiff's attorney pursuant *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002). The Court's previous EAJA award was \$3,240.00. ECF No. 26. Plaintiff's counsel notes that he did not petition for an administrative fee, and he agrees that the \$3,240.00 EAJA fee award should be refunded to Plaintiff. ECF No. 27-1 at 7. Accordingly, after the receipt of the requested fee award, Plaintiff's counsel shall remit the \$3,240.00 EAJA award to Plaintiff.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
Senior United States District Judge

June 1, 2023
Columbia, South Carolina